



European Network of Councils
for the Judiciary (ENCJ)

Réseau européen des Conseils
de la Justice (RECJ)

ENCJ Project Team

TIMELINESS

Guide to Questionnaire

0. Background and General Comments

Background

At the ENCJ General Assembly in London in June 2010 it was decided to establish a Project Team that should specifically address the issue Timeliness as this is a general problem all over Europe.

In the “Strategic Plan for the ENCJ” the work of the Project Team on Timeliness constitutes a part of Strategic Goal no 4: “To promote best practices in Justice Sector for quality management”. According to the Strategic Plan the Project Team among other tasks should provide information and development of best practices and common standards to secure timeliness in judicial procedures and decisions.

As a basis for this work the Project Team on timelines has decided to seek information from member and observer countries by asking them to answer a questionnaire on issues relevant to the project. The information gathered will constitute the basis for a report containing a comparative analysis on how all the Members and Observers of the ENCJ in various ways have handled the issue on timeliness. In the Report the Team will also discuss best practices and if possible make recommendations or give ideas on how to meet the problem on processing times.

The Report and any Recommendations will form the topics to be discussed at a Conference that is another project of the Project Team. The purpose of the Project Team’s work is thus to disseminate

all the issues for discussion at the Conference where politicians and other stakeholders will participate.

General Comments

The Questionnaire is addressed to the Court Administration or Council for the Judiciary who is the actual member of the ENCJ. If in your country there exist different administrations covering different branches of legal litigations, you should only give information that you are able to gather within your own competence, but we would ask you to state which other administrations there exist in your country.

The Court Administration or Council for the Judiciary or The Ministry of Justice in answering the questionnaire should cooperate with the Project Team member of the country, who with a view to this cooperation will contact you shortly after you have received the questionnaire.

The aim of the questionnaire is to receive information among other issues on best practices used in the courts. Interesting information may therefore not necessarily lie within your own organisation, but may also be found with the individual courts as some might have implemented a practice within their own district which seeks to f.i. minimise the preparation time. In some cases interesting information might even only be found with a single judge, who has found a way to f.i. effectively control the preparation time. Information on such practices should be included in your answer. However we do not suggest to have all courts and judges participating in preparation of the answer, and therefore only ask of you in your answer to include information on such practices that are known to you.

In different branches there may be different practices. We would like to concentrate on practice used in ordinary criminal and civil cases, and therefore ask you in your answer to concentrate on these.

If it is found feasible two or more questions may be answered together in one answer. For the purpose of receiving answers that are clear and comparable the Questionnaire should however as a main rule be answered as such. It is **not** the intention of the Questionnaire to collect memos containing only one long general description.

1. The Court System and Available Statistics

1.1. The Court System

Please give a short description (in about 2 pages) of the organization of your court system including the different instances (first, appellate, cassation or other third instance) and division in branches, if any (criminal (severe or petty crime), ordinary civil, and administrative courts, as well as special courts for family, labour, or other special matters).

1.2. Statistic information on Courts, judges and cases

Your answer should include only readily available statistics, for the latest year processed, if possible for 2009.

Your answer may specify the total number of

- Courts and judges (calculated as full year employed professional judges excluding lay judges and lay justices of the peace)
- cases – incoming as well as decided – for each instance (**not** each court - instance will include first, appellate, cassation or other third instance). If some cases are handled by other than judges, please specify the number of cases handled by judges as well as the number of cases handled by others.
- in each major branch of the court system, if separate branches exist, (criminal (severe or petty crime), ordinary civil, and administrative courts, but excluding special courts as f.i. family, labour and others)

1.3. Statistic information on processing time

Your answer should include the latest year processed statistics, if possible for 2009.

Your answer may include

- Total processing time (from receipt until rendering decision) for each instance (**not** each court) in each branch or if the court system is not divided in branches:

for cases of different types (criminal (severe or petty crime), ordinary civil, and administrative)

- If possible, specification on time involved in preparing the case (from receipt until finalizing preparation for hearing or decision) and in deciding the case (from finalizing preparation until rendering decision). In orally heard cases, where hearings are scheduled after preparation also time involved in waiting for hearing the case (from finalizing preparation until commencement of hearings) and subsequent in hearing and deciding the case (from commencement of hearings until rendering decision. In countries where the courts are involved in investigation or instruction before the trial, the investigational and instructional phases should be left out)

You should not include statistics on prosecutors and on investigation time in criminal cases.

Detailed statistic information will not be included in the report.

2. Statistics, Requirements and Transparency

2.1. What statistics are provided for on a regular basis?

Your answer may include

- At which level of information are statistics provided for?

2.2. Are provided statistics published?

Your answer may include

- How are they published (f.i. at the internet or other)?
- If not published, to whom are they available (f.i. administration, courts/judges concerned, other courts/judges, professional bodies, public)?
- Is bench marking encouraged?

2.3. Is processing of individual cases transparent?

If it is, your answer may include

- By which means is it made transparent (f.i. on a webpage of the case or other)?
- In which types of cases (civil, criminal or other) is processing made transparent?
- To whom (judges, court presidents, court staff, administration, parties, and others) is processing made transparent?

2.4. Are requirements for processing time stipulated?

If they are, your answer may include

- Whether they are stipulated by law, by standards, by best practice information, or other?

2.5. What are the consequences of exceeding required/reasonable processing time according to national rules or practice?

Your answer may include

- Compensation to parties,
- Disciplinary measures to courts or judges,
- Reduction of caseload / allocation of additional staff or
- Fulfilment of requirements is not controlled
- Other

Information on the practice of the European Court on Human Rights is well known, and should not be mentioned in the questionnaire.

2.6. Can the parties and others make a complaint about the processing time?

If they can, your answer may include

- How and to whom?

2.7. Are user surveys on processing time carried out?

If they are, your answer may include

- How and how often?

3. Reduction of Caseload and Facilitating Court Procedures

3.1. Which means of reduction of caseload are used?

Your answer may include

- Reduction of appeals (f.i. by hindrances to minor cases)
- Reduction of appeals to third instance/reference to cassation courts (f.i. by screening procedure)
- Encouraging alternative dispute resolution (f.i. mitigation, instead of court procedure or during court procedure as a means to solving the case without hearing and deciding)
- Establishing special official or private bodies to handling disputes in special areas, including preliminary decisions;
- Reference of cases to other courts or to other judges within the same court.

3.2. Are any special easy procedures available?

If there are, your answer may include

- Special fast track procedures or
- Small claims procedures
- Other

3.3. What simplifications of ordinary procedures are applied?

Your answer may include

- Accepting written testimonies or
- Testimony in video and telephone conferences
- Other

Your answer should include information on whether simplifications made possible by law are actually applied, and the reason for not applying them if that is the case.

3.4. Give examples of practices used within ordinary procedures to speed up ordinary procedures

Your answer may include

- Setting limits to written preparative procedure;
- Setting time limits to parties and court during preparatory stage, and to deciding after hearing;
- Planning preparation, hearing and deciding shortly after receiving the case.

4. Increase of Capacity and Improvement of Processing

4.1. Do you try to limit processing time by an increase of courts or increase or reallocation of judges or cases?

Your answer may include

- Ambulance Teams (Back-Up, Flying Brigades, Supplementary Judges, who are not permanently allocated to a specific court)
- Decreasing number of judges sitting on a case
- Increasing number of judges appointed
- Assistance from retired judges
- Reallocation of judges within a court or between courts
- Reallocation of cases to a judges with less caseload

4.2. Do you try to limit processing time by taking on assistance from deputy judges, trainee judges, or juridical assistants?

If so what tasks do they undertake?

- Preparing cases or decisions?
- Hearing and deciding minor cases?
- Other?

4.3. Do you try to limit processing time by facilitating processing of cases?

Your answer may include

- Specialization of judges
- Duration of oral hearings
- Replacing oral hearings with witness statements and written argument
- Requirements to written judgements and best practices. Quoting or referring documents. Taping or typing witness statements. Citing of reasons. Use of it-resources.
- Use of standards, best practices, it-systems, standard documents
- Others

4.4. Do you try to limit processing time by giving secretary or juridical assistance to individual judges?

4.5. Do you try to improve court proceedings or increase the capacity of courts by any scientific, experimental or technical project?

Your answer may include a clear description of projects for:

- Logistics
- Leadership
- Case management
- Working
- Economic planning

5. **Other initiatives**

5.1. Have other initiatives concerning timeliness been undertaken or are they contemplated?

Your answer may include information on any relevant issue.